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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,235	11/07/2000	Kevin Calloway	03-10074	1158
36212 7590 08/28/2009 LAW OFFICES OF DAVID L. HOFFMAN 28494 WESTINGHOUSE PLACE SUITE 204 VALENCIA, CA 91355				
EXAMINER				
ALVAREZ, RAQUEL				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
08/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/708,235

Applicant(s)

CALLOWAY ET AL.

Examiner

Raquel Alvarez

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 and 71-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 and 71-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Board of Appeal Decision on 5/1/2009, PROSECUTION IS HEREBY REOPENED. As set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

2. Claims 1-63 and 71-78 are presented for examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, 18-33, 36-63 and 71-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibbeler (6,067,348 hereinafter Hibbeler) in view of Faynberg et al. (6,222,826 hereinafter Faynberg).

With respect to claims 1-7, 9,-11, 55, 57, 58, 71-72, 74 Hibbeler teaches a system for creating and distributing a series of individualized messages over a computer network for a plurality of recipients (Abstract). A recipient information repository with unique recipient information for at least a first and second recipient (Figure 11, 300); a content repository with computer files comprising at least one of text and audio files (i.e. the greetings can be stored as text or audio and are converted into speech)(col. 5, lines 10-37); means for creating and delivering individualized over said computer network to each of the plurality of recipients, wherein said content is assembled from selected elements with the content repository which are selected in response to individual information about each of said recipients whose individual information is extracted from the recipient information repository (col. 3, lines 51-67).

With respect to the content being delivered via multimedia. Hibbeler teaches delivering the content via audio. Hibbeler is silent as to distributing the messages via multimedia. Faynberg teaches "Multimedia Calling Method and Apparatus", title, the system of Faynberg delivering multimedia and/or audiovisual presentations to the caller via public switched network (PSTN). Producing a multimedia presentation for a calling party in which video and audio information is provided (col. 6, lines 32-50). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included in the telephone of Hibbeler the teachings of Faynberg of

delivering multimedia messages in order to **"provide interactive multimedia advertisements and/or presentations to the caller"** (in Faynberg col. 1, lines 41-44).

With respect to claims 20, 21, 24-30, 32, 49-50, 73 Hibbeler teaches a system for creating and distributing individualized messages over a computer network (Abstract). A computer operatively connected to said network and executing a programmed sequence of instructions (See Figure 11, 1110); a recipient information access routine with said programmed sequence of instructions which is capable of accessing data about a given intended recipient with unique recipient information for at least a first and second recipient (Figure 11, 300); a content repository containing elements that may be combined to form individualized messages with computer files comprising at least one of text and audio files (i.e. the greetings can be stored as text or audio and are converted into speech)(col. 5, lines 10-37); a content management routine within said programmed sequence of instructions which is capable of retrieving selected content from the content repository, wherein the process of selecting content is responsive to information content regarding the given recipient accessed by the recipient information access routine (see Figure 11, 1110); a multimedia engine routine within said programmed sequence of instructions which packages the content as individualized message for delivery to the given recipient (Figure 11); a delivery routine within said programmed sequence of instructions which delivers the individualized message to the given recipient (Figure 11, 1120).

With respect to the messages being graphic and video. Faynberg teaches on col. 6, lines 32-50 producing a multimedia presentation for a calling party in which video and audio information is provided (col. 6, lines 32-50). . It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the messages being graphic and video in order to enable the customers to receive the information in voice and video and therefore provide a visual representation of the information received.

Claim 8 further recites a clean up routine which cleans up a recipient database by removing errors and unwanted redundancies. Official notice is taken that is old and well known in the computer related arts to remove errors and unwanted redundancies from a database in order to free memory space and to leave just useful information in the database. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a clean up routine which cleans up a recipient database by removing errors and unwanted redundancies in order to obtain the above mentioned advantage.

Claims 12-15, 33, 36-38, 54, 56, 59-63 further recite delivering the message via various e-mail formats. Hibbeler teaches transmitting the message over the Internet (col. 6, lines 38-40) therefore delivering messages via e-mail including various formats would have been obvious convenient and widely use by computer users.

Claims 19 and 23 further recite printing the individualized messages. Official notice is taken that is old and well known to print individualized messages to the customer in order to provide a more permanent output. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included printing the individualized messages in order to obtain the above mentioned advantage.

Claims 22 and 31 further recites known computer programming languages. Since Hibbeler teaches transmitting the message over the Internet (col. 6, lines 38-40) then it would have been obvious to have included the various programming languages.

Claims 39-40, 42-43, 45 further recite allowing direct client input and a search engine. Official notice is taken that is old and well known in computer related arts to allow direct client input in order to take the user's objectives, likes and dislikes into account for later customization of the data and a search engine for finding information . It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included allowing direct client input and a search engine in order to obtain the above mentioned advantage.

Claims 41, 44 and 46 further recite restricting non-authorized parties from accessing a client campaign and files check in and out. Official notice is taken that is old and well known in the computer related arts to restrict non-authorized parties from accessing certain information and files check in and out. For example, certain

employees would not have access to certain classified information for security reasons and keeping track of the files checked in and out to keep track of whoever is using those files. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included restricting non-authorized parties from accessing a client campaign and to manage file check in and out in order to achieve the above mentioned advantage.

Claim 47 further recites real time report and usage statistics. Official notice is taken that is old and well known in the computer related arts to real time reporting and usage statistics because such a modification would allow for collection, analysis and interpretation of the data collected.

Claim 51 further recites modifying the individualized message with an offer, rebate or discount. Official notice is taken that is old and well known in the computer related arts to offer an individualized, message or discount to a customer in order to increase the like hood that the customer will use the offer. For example, a couple with children will be given a children related offer that will take into account the customer needs. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included modifying the individualized message with an offer, rebate or discount in order to obtain the above mentioned advantage.

Claim 52 further recites a word-of mouth form of advertisement. Official notice is taken that is old and well known in marketing to promote word-of mouth form of advertisement because such a modification would provide an inexpensive reliable form of advertisement.

Claim 53 further recites collecting user's recommendations. Official notice is taken that is old and well known to collect user's recommendations and input in order to use the information to improve and make modifications to the system in place. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included collecting user's recommendations in order to achieve the above mentioned advantage.

4. Claims 16-17, 34-35 and 75-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibbeler (6,067,348 hereinafter Hibbeler) in view of Faynberg et al. (6,222,826 hereinafter Faynberg) further in view of Smith et al. (6,725,381 hereinafter Smith).

Claims 16-17, 34-35 and 75-78 further recite sending a unique URL to the recipient pointing to the message content and a second routine to display the message content. Smith teaches on col. 4, lines 35-43, delivering a **personalized Universal resource locator (URL) in the e-mail message with instructions to the recipient to use the URL to retrieve the subject document** and allowing the user to click on the URL to open the content of the message . It would have been obvious to a

person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Smith of sending a unique URL to the recipient pointing to the message content and displaying the message content because such a modification would allow for 'push" paradigm messaging and document delivery (col. 4, lines 35-43).

Point of contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Weinhardt can be reached on (571)272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

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Primary Examiner
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R.A.
8/17/2009

/Wynn W. Coggins/
Director, TC 3600